
AGENCY: Division of Procurement Services

SUBJECT: Waiver to Extend the Maximum Time on a Multi-term Contract for the University of South Carolina

Section 11-35-2030(5), of the SC Consolidated Procurement Code limits the maximum duration for a contract to seven years unless otherwise approved by the Authority. The University of South Carolina has asked the Division of Procurement Services to assist in seeking Authority approval to authorize the University to solicit a contract for up to ten (10) years for the rental management of available space, premium catering and operation of a dining facility at Williams Brice Stadium. University officials believe a contract term of ten years will maximize revenue and its ability to attract proposals.

AUTHORITY ACTION REQUESTED:

Under authority of SC Consolidated Procurement Code Section 11-35-2030(5), approve the University of South Carolina's request to solicit proposals and award a contract with a duration of ten years for rental management of available space, premium catering and operation of a dining facility at Williams Brice Stadium.

ATTACHMENTS:

Agenda item worksheet; Manigo 11/18/2020 letter of request; Section 11-35-2030(5) of the Consolidated Procurement Code

**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

Meeting Scheduled for: 12/17/2020

Choose an item. Agenda

1. Submitted by: Click or tap here to enter text.

(a) Agency: Division of Procurement Services

(b) Authorized Official Signature:


John S. White, Materials Management Officer

2. Subject: Other-Specify

Waiver to extend the maximum time on a multi-term contract for the University of South Carolina

3. Summary and Background Information: Section 11-35-2030(5), of the SC Consolidated Procurement Code limits the maximum duration for a contract to seven years unless otherwise approved by the Authority. The University of South Carolina has asked the Division of Procurement Services to assist in seeking Authority approval to authorize the University to solicit a contract for up to ten (10) years for the rental management of available space, premium catering and operation of a dining facility at Williams Brice Stadium.. University officials believe a contract term of ten years will maximize revenue and its ability to attract proposals.

4. What is the Authority asked to do? Under authority of SC Consolidated Procurement Code Section 11-35-2030(5), approve the University of South Carolina's request to solicit proposals and award a contract with a duration of ten years for rental management of available space, premium catering and operation of a dining facility at Williams Brice Stadium..

5. What is recommendation of the submitting agency involved? Approve the University of South Carolina's request as stated above.

6. Private Participant Disclosure – Check one:

☒ No private participants will be known at the time the Authority considers this agenda item.

☐ A Private Participant Disclosure form has been attached for each private participant.

As referenced on the Disclosure forms, a private participant is a natural person or non-governmental legal entity which may directly benefit from, and is participating in or directly associated with, the requested approval.

7. Recommendation of other office (as required)?

(a) Authorized Signature: _____

(b) Office Name: Click or tap here to enter text.

8. List of Supporting Documents : A-Letter of request; B-Section 11-35-2030(5) of the Consolidated Procurement Code.

9. Upload Agenda Item Worksheet and supporting documentation in PDF and native format to the SFAA Authority File Drop.

Exhibit A



November 18, 2020

Mr. John White
State Fiscal and Accountability Authority
Materials Management Office
1201 Main St. Suite 600
Columbia, SC 29201

Dear Mr. White:

The University of South Carolina plans to issue a Request for Proposals to select a contractor to provide for the rental management of available space, premium catering and operation of a dining facility at Williams Brice Stadium. We are formally seeking your recommendation and the approval of the State Fiscal Accountability Authority to award a contract pursuant to this project with terms exceeding 7 years under Section 11-35-2030 of the Consolidated Procurement Code.

This contract will represent a significant revenue source for the University's Athletics program and it will be crucial to maximize the revenue producing capacity of this contract. The strategic issuance of this RFP comes at the expiration of the current catering contract and purposefully aligns with the completion of the recently completed Williams-Brice Stadium renovations and opening of the Long Family Football Operations Center. The successful contractor will be required to make a significant investment in building out the area identified for a catering kitchen at Williams-Brice. We expect that this will involve the purchase of new kitchen and food service equipment as well as other work associated with the build out of the catering facility.

We are seeking the opportunity to pursue a 10-year contract which should encourage proposals featuring greater upfront incentives and capital investments and will allow the selected contractor to amortize any capital investment or startup costs over a longer period. It may also bring about the opportunity for the department to negotiate a more favorable revenue share. It is for these reasons that it is in the best interest of the University to receive approval to seek a 10-year term for these opportunities. When executed, this contract will provide a significant revenue source for the University's Athletics Department, maximizing and diversifying the amazing potential of Williams-Brice Stadium. It will also help maintain high levels of customer service, ensure funds for maintenance and provide unique dining and event experiences at Williams-Brice Stadium for years to come.

Since these terms will exceed 7 years, they will also require approval of the State Fiscal Accountability Authority and we are hoping to obtain that at the December 18th meeting. I appreciate your consideration of this request and your forwarding this request to the SFAA for their approval.

Your consideration of this request is greatly appreciated, please let me know if you have any additional questions or concerns.

Sincerely,



Venis Manigo

Associate Vice President & CPO, Administration and Finance

CC: Clarissa Clark, Director of Purchasing

Exhibit B

SECTION 11-35-2030. Multiterm contracts.

(1) Specified Period. Unless otherwise provided by law, a contract for supplies, services, or information technology must not be entered into for any a period of more than one year unless approved in a manner prescribed by regulation of the board. The term of the contract and conditions of renewal or extension must be included in the solicitation and funds must be available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods must be subject to the availability and appropriation of funds for them.

(2) Determination Prior to Use. Before the utilization of a multiterm contract, it must be determined in writing by the appropriate governmental body that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) such a contract serves the interest of the State by encouraging effective competition or otherwise promoting economies in state procurement.

(3) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(4) Maximum Duration. The maximum potential duration for a contract is five years. A maximum potential duration of up to seven years may be approved by the appropriate chief procurement officer.

(5) Authority Approval. Every type of contract with a maximum potential duration exceeding seven years must be approved by the board. For competitive procurements, approval of the maximum potential duration must be granted before solicitation.